

Division of Medicaid Files Motion in Jackson County Court to Set Aside Order Funding “Partnership”

Medicaid Director Says Funding Illegal, Better Used for Sick Beneficiaries

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(Jackson, Miss.) The Division of Medicaid today filed a motion in Jackson County Chancery Court that asserts that the unilateral creation of the “Partnership for a Healthy Mississippi” by the court in 2000 was “unconstitutional” and should be vacated.

Medicaid Executive Director Dr. Warren Jones says the money could be better used in the state’s cash-strapped Medicaid program. “The original intention of the tobacco settlement was to recoup Medicaid dollars for the state. We believe this motion will ultimately allow the Legislature to fulfill that intention,” said Jones. “We believe with this action the state can aid Medicaid beneficiaries with life-saving treatments and medications while at the same time continuing anti-smoking efforts aimed at Mississippi’s youth.”

The “Partnership for a Healthy Mississippi” received \$60 million in state funds for a two-year “youth tobacco cessation pilot program” after the original 1997 Tobacco Master Settlement Agreement with the nation’s major tobacco companies was reached. It was later expanded to an additional \$20 million per year in 2000 by a Jackson County Chancery Judge.

The motion filed by the Division of Medicaid cites several reasons for the 2000 court order to be set aside. It asserts that the order:

- represents an improper exercise of the Court's judicial power by interfering with, and encroaching upon, the Legislature's powers of appropriation – which is the only state body which can appropriate state funds,
- violates the terms of the original tobacco settlement agreement,
- violates state law that requires that "all tobacco installment payments made in subsequent years" be paid to the Mississippi Healthcare Trust Fund in the State Treasury,
- and violates state law which requires an order be entered only upon a motion made in writing, unless the motion is made during a hearing or trial.

The Health Care Trust Fund Board, which was established to manage the annual payments to the State from tobacco companies, voted last month to seek similar legal action to determine the legality of the "Partnership" funding.

Dr. Jones said that persistent questions concerning the legality of the funding of the “Partnership” were strong enough to warrant legal action. He cited a November 2003 Joint Legislative PEER (Performance Evaluation and Expenditure Review) Committee report that concluded that “the order (to fund the ‘Partnership’) is not in compliance with state law” and is “unconstitutional.”

Due to a \$268 million deficit for the current fiscal year, the Division of Medicaid announced last week that it will not have money to pay the more than 14,000 Medicaid providers across the state by the end of this month barring Legislative action.

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